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3 Upland, CA 91786
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4 Facsimile: (909) 985-3299

5 Attorneys for ALL PLAINTIFFS

6

7   UNITED STATES DISTRICT COURT

8   CENTRAL DISTRICT OF CALIFORNIA

9

10 AGUSTIN ARIAS; CHUCK
    STRANGE; NATE FLINT; LANE
11 MIDDLETON; DAN SESSIONS;
    ERIC NESBY; DANIEL RIOS; ERIC
12 ANDREASEN; LEONEL GARZA;
    EDWARD LARDNER; SIGNORELLI
13 LUCAS; DEANNA CLEMENT;
    BRYAN FINDLAY; CHRISTIAN
14 WOODHEAD; SCOTT MORGAN;
    SERGIO ARIAS; BRIAN GUERRA;
15 SCOTT CASEY; BRYAN DILLARD;
    ROBERT DUGAN; COREY COX;
16 JASON PAUL FLINT; JORGE
    MAGANA; VINCENT MAGALLON;
17 SUZIE AANERUD; DAVID GARCIA;
    JON BAILEY; RONALD HUTCHINS;
18 MARK POWELL; STEPHEN
    DELAURETIS; MAURICIO
19 CALDERON; JOHN REYNA;
    ANDREW WHITE; MILT BALDWIN;
20 TIMOTHY XIONG; FRANK LOPEZ;
    KEVIN SCHRYVERS,

21   Plaintiffs,

22 vs.

23

24 CITY OF LOMPOC, A Municipal
    Corporation, and DOES 1 THROUGH
25 10,

26   Defendants.

Case No.:

CV09-8412

**COMPLAINT FOR DAMAGES
AND INJUNCTIVE AND
DECLARATORY RELIEF**

[29 U.S.C. §§ 201 et seq.]

DEMAND FOR JURY TRIAL

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28

COMPLAINT FOR DAMAGES

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JURISDICTION

1.   This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1343(3), as the controversy arises under "the Constitution, laws or treatises of the United States." Specifically, the claim rises under the Fair Labor Standard Act of 1938, 29 U.S.C. §§ 201 et seq. ("FLSA").

VENUE

2.   Venue is proper in the Southern District of California pursuant to 28 U.S.C. §1391(b) because the acts, events, or omissions giving rise to the claim occurred in this District.

PARTIES

3.   All Plaintiffs are United States citizens and residents of the State of California. They are either current employees or former employees of the City of Lompoc, employed as peace officers for City of Lompoc Police Department.

4.   Defendant City of Lompoc is a political subdivision of the State of California, located within California and is an employer whose employees are engaged in commerce within the meaning of 29 U.S.C. §207(a) and as defined in 29 U.S.C. §§203(d) and 203(e)(2)(c). The Lompoc Police Department is a division and department of the City of Lompoc.

5.   Plaintiffs are ignorant of the names and capacities of the individuals or entitles sued herein as DOES 1 THROUGH 10, who may have been involved in the unlawful acts alleged herein. Plaintiffs allege that each of the fictitiously named Defendants sued herein are legally responsible in some manner for the events and happenings referred to herein, and that Plaintiffs' damages as alleged were proximately caused by their conduct.

6.   The acts and omissions of the Defendants who are or may be identified as employees and/or officials of the City, were undertaken in accordance

COMPLAINT FOR DAMAGES

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1   with and represent the official policies of the city and/or were undertaken by

2   employees whose acts and omissions may be fairly said to represent the official

3   policies of the City.

4   7.   Defendants, and each of them, except the City Defendant, which is

5   sued as an entity, are sued in their individual and official capacities.

6   8.   Unless otherwise indicated, each Defendant conspired, committed,

7   ordered, directed, supervised, allowed, planned ratified, concealed, organized, or

8   otherwise participated in one or more of the unlawful acts complained of herein.

COLLECTIVE ACTION ALLEGATION UNDER THE FLSA

9   9.   Plaintiffs' herein file this action on behalf of themselves and on

behalf of all other similarly situated persons currently or formerly employed by the

City of Lompoc to recover unpaid overtime compensation, liquidated damages

and/or any other recovery authorized under the FLSA and such supplemental

claims as they may have.

CLAIM FOR RELIEF

10.   Paragraphs 1 through 9 are incorporated herein.

11.   Defendants have willfully violated, and are willfully violating, the

compensation requirements of the FLSA, 29 U.S.C. Section 207, by employing

Plaintiffs, and all other similarly situated employees, for weeks longer than the

applicable maximum weekly hours established by Section 207 of the FLSA,

without properly compensating them for work performed in excess of the above

described hours at rates not less than one and one-half times their regular rates of

pay. Such violations include pre-shift and post-shift donning and doffing that is

required, integral and an indispensable part of the principle activities of the work

performed.

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WHEREFORE, Plaintiffs pray Judgment as follows:

1. That this Court declare that Defendant has violated the Fair Labor Standards Act by and through its policy and/or practice of refusing to compensate plaintiffs for donning and doffing time;

2. That this Court issue Preliminary and Permanent Injunctions enjoining Defendant, Defendant's agents, employees, and all persons in active concert or participation with them, from violating Plaintiffs' rights under the Fair Labor Standards Act;

3. That Defendants be required to pay the Plaintiffs and any and all other similarly, situated employees unpaid overtime compensation found due by the court as a result of Defendants' violation of Section 207 of the FLSA, plus an additional equal amount as liquidated damages;

4. That Defendants be required to pay Plaintiffs their reasonable attorney's fees, costs of this action and both pre-judgment and post-judgment interest; and

5. That Plaintiffs have such further relief as is just and necessary.

Respectfully submitted,
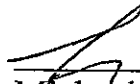
Date: November 13, 2009

LACKIE, DAMMEIER & MCGILL APC

Michael A. McGill
Attorneys for Plaintiffs
AGUSTIN ARIAS, et al.

DEMAND FOR JURY

Plaintiffs hereby demand a jury trial under Federal Rules of Civil Procedure, Rule 38 and this Court's local rules.

Date: November 13, 2009

LACKIE, DAMMEIER & MCGILL APC

Michael A. McGill
Attorneys for Plaintiffs
AGUSTIN ARIAS, et al.

AO 440 (Rev. 8/01) Summons in a Civil Action

UNITED STATES DISTRICT COURT

Central District of California

AGUSTIN ARIAS,
(See attachment)

        Plaintiff,

SUMMONS IN A CIVIL CASE

V.

CITY OF LOMPOC, A Municipal Corporation,
and DOES 1 THROUGH 10,

        Defendants.

CASE NUMBER:

CV09-8412 SS

TO: (Name and address of Defendant)

YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY (name and address)

Michael A. McGill, SBN: 231613
Lackie, Dammeier & McGill APC
367 North Second Avenue
Upland, CA 91786

an answer to the complaint which is served on you with this summons, within _____20_____ days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

Jerry Najiu

CLERK

[signature]

(By) DEPUTY CLERK

16 NOV 2009

DATE

AO 440 (Rev. 8/01) Summons in a Civil Action

RETURN OF SERVICE

	DATE
Service of the Summons and complaint was made by me[1]	
NAME OF SERVER (PRINT)	TITLE

Check one box below to indicate appropriate method of service

☐ Served personally upon the defendant. Place where served: _____

_____

☐ Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.

   Name of person with whom the summons and complaint were left: _____

☐ Returned unexecuted: _____

_____

_____

☐ Other (specify): _____

_____

_____

STATEMENT OF SERVICE FEES

TRAVEL	SERVICES	TOTAL

DECLARATION OF SERVER

   I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.

Executed on _____   _____
                          Date   Signature of Server

                                          _____
                                                       Address of Server

_____

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.

SUM-200(A)

SHORT TITLE: Arias, et al. v. City of Lompoc	CASE NUMBER:

INSTRUCTIONS FOR USE

→ This form may be used as an attachment to any summons if space does not permit the listing of all parties on the summons.

→ If this attachment is used, insert the following statement in the plaintiff or defendant box on the summons: "Additional Parties Attachment form is attached."

List additional parties *(Check only one box. Use a separate page for each type of party.):*

[✓] Plaintiff   [ ] Defendant   [ ] Cross-Complainant   [ ] Cross-Defendant

CHUCK STRANGE; NATE FLINT; LANE MIDDLETON; DAN SESSIONS; ERIC NESBY; DANIEL RIOS; ERIC ANDREASEN; LEONEL GARZA; EDWARD LARDNER; SIGNORELLI LUCAS; DEANNA CLEMENT; BRYAN FINDLAY; CHRISTIAN WOODHEAD; SCOTT MORGAN; SERGIO ARIAS; BRIAN GUERRA; SCOTT CASEY; BRYAN DILLARD; ROBERT DUGAN; COREY COX; JASON PAUL FLINT; JORGE MAGANA; VINCENT MAGALLON; SUZIE AANERUD; DAVID GARCIA; JON BAILEY; RONALD HUTCHINS; MARK POWELL; STEPHEN DELAURETIS; MAURICIO CALDERON; JOHN REYNA; ANDREW WHITE; MILT BALDWIN; TIMOTHY XIONG; FRANK LOPEZ; KEVIN SCHRYVERS,

PLAINTIFFS

Page _____ of _____

Page 1 of 1

Form Adopted for Mandatory Use Judicial Council of California SUM-200(A) [Rev. January 1, 2007]	**ADDITIONAL PARTIES ATTACHMENT** **Attachment to Summons**	American LegalNet, Inc. www.FormsWorkflow.com

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

I (a) PLAINTIFFS (Check box if you are representing yourself ☐) AGUSTIN ARIAS, et al.	DEFENDANTS CITY OF LOMPOC, A Municipal Corporation, and DOES 1 THROUGH 10
(b) County of Residence of First Listed Plaintiff (Except in U.S. Plaintiff Cases): Santa Barbara County	County of Residence of First Listed Defendant (In U.S. Plaintiff Cases Only): Santa Barbara County
(c) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) Michael A. McGill, Esq. Lackie Dammeier McGill, APC 367 N. Second Avenue Upland, CA 91786 Tel: (909) 985-4003	Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an X in one box only.)

☐ 1 U.S. Government Plaintiff

☒ 3 Federal Question (U.S. Government Not a Party)

☐ 2 U.S. Government Defendant

☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only
(Place an X in one box for plaintiff and one for defendant.)

	PTF	DEF		PTF	DEF
Citizen of This State	☐ 1	☐ 1	Incorporated or Principal Place of Business in this State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated and Principal Place of Business in Another State	☐ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. ORIGIN (Place an X in one box only.)

☒ 1 Original Proceeding   ☐ 2 Removed from State Court   ☐ 3 Remanded from Appellate Court   ☐ 4 Reinstated or Reopened   ☐ 5 Transferred from another district (specify):   ☐ 6 Multi-District Litigation   ☐ 7 Appeal to District Judge from Magistrate Judge

V. REQUESTED IN COMPLAINT: JURY DEMAND: ☒ Yes   ☐ No (Check 'Yes' only if demanded in complaint.)

CLASS ACTION under F.R.C.P. 23: ☐ Yes ☒ No   ☐ MONEY DEMANDED IN COMPLAINT: $_____

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)
29 U.S.C. Section 201 et seq.

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES	CONTRACT	TORTS PERSONAL INJURY	TORTS PERSONAL PROPERTY	PRISONER PETITIONS	LABOR
☐ 400 State Reapportionment	☐ 110 Insurance	☐ 310 Airplane	☐ 370 Other Fraud	☐ 510 Motions to Vacate Sentence Habeas Corpus	☒ 710 Fair Labor Standards Act
☐ 410 Antitrust	☐ 120 Marine	☐ 315 Airplane Product Liability	☐ 371 Truth in Lending	☐ 720 Labor/Mgmt. Relations
☐ 430 Banks and Banking	☐ 130 Miller Act	☐ 320 Assault, Libel & Slander	☐ 380 Other Personal Property Damage	☐ 530 General	☐ 730 Labor/Mgmt. Reporting & Disclosure Act
☐ 450 Commerce/ICC Rates/etc.	☐ 140 Negotiable Instrument	☐ 330 Fed. Employers' Liability	☐ 385 Property Damage Product Liability	☐ 535 Death Penalty
☐ 460 Deportation	☐ 150 Recovery of Overpayment & Enforcement of Judgment	☐ 340 Marine	BANKRUPTCY	☐ 540 Mandamus/ Other	☐ 740 Railway Labor Act
☐ 470 Racketeer Influenced and Corrupt Organizations	☐ 345 Marine Product Liability	☐ 422 Appeal 28 USC 158	☐ 550 Civil Rights	☐ 790 Other Labor Litigation
☐ 151 Medicare Act	☐ 555 Prison Condition	☐ 791 Empl. Ret. Inc. Security Act
☐ 480 Consumer Credit	☐ 152 Recovery of Defaulted Student Loan (Excl. Veterans)	☐ 350 Motor Vehicle	☐ 423 Withdrawal 28 USC 157	FORFEITURE / PENALTY	PROPERTY RIGHTS
☐ 490 Cable/Sat TV	☐ 355 Motor Vehicle Product Liability	CIVIL RIGHTS	☐ 610 Agriculture	☐ 820 Copyrights
☐ 810 Selective Service	☐ 360 Other Personal Injury	☐ 441 Voting	☐ 620 Other Food & Drug	☐ 830 Patent
☐ 850 Securities/Commodities /Exchange	☐ 153 Recovery of Overpayment of Veteran's Benefits	☐ 442 Employment	☐ 840 Trademark
☐ 875 Customer Challenge 12 USC 3410	☐ 362 Personal Injury-Med Malpractice	☐ 443 Housing/Acco-mmodations	☐ 625 Drug Related Seizure of Property 21 USC 881	SOCIAL SECURITY
☐ 160 Stockholders' Suits	☐ 444 Welfare	☐ 861 HIA (1395ff)
☐ 890 Other Statutory Actions	☐ 190 Other Contract	☐ 365 Personal Injury-Product Liability	☐ 445 American with Disabilities - Employment	☐ 862 Black Lung (923)
☐ 891 Agricultural Act	☐ 195 Contract Product Liability	☐ 630 Liquor Laws	☐ 863 DIWC/DIWW (405(g))
☐ 892 Economic Stabilization Act	☐ 368 Asbestos Personal Injury Product Liability	☐ 640 R.R. & Truck
☐ 196 Franchise	☐ 650 Airline Regs	☐ 864 SSID Title XVI
☐ 893 Environmental Matters	REAL PROPERTY	☐ 446 American with Disabilities - Other	☐ 660 Occupational Safety /Health	☐ 865 RSI (405(g))
☐ 894 Energy Allocation Act	☐ 210 Land Condemnation	FEDERAL TAX SUITS
☐ 895 Freedom of Info. Act	☐ 220 Foreclosure	☐ 690 Other	☐ 870 Taxes (U.S. Plaintiff or Defendant)
☐ 900 Appeal of Fee Determi-nation Under Equal Access to Justice	☐ 230 Rent Lease & Ejectment	☐ 440 Other Civil Rights
☐ 240 Torts to Land	☐ 871 IRS-Third Party 26 USC 7609
☐ 245 Tort Product Liability
☐ 950 Constitutionality of State Statutes	☐ 290 All Other Real Property

VIII(a). IDENTICAL CASES: Has this action been previously filed and dismissed, remanded or closed? ☒ No   ☐ Yes

If yes, list case number(s): _____

CV09-8412

FOR OFFICE USE ONLY: Case Number: _____

CV-71 (07/05)   CIVIL COVER SHEET   Page 1 of 2

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

VIII(b). RELATED CASES: Have any cases been previously filed that are related to the present case? ☑ No   ☐ Yes

If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

(Check all boxes that apply)   ☐ A. Arise from the same or closely related transactions, happenings, or events; or

☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or

☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or

☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: List the California County, or State if other than California, in which **EACH** named plaintiff resides (Use an additional sheet if necessary)
☐ Check here if the U.S. government, its agencies or employees is a named plaintiff.
Santa Barbara County

List the California County, or State if other than California, in which **EACH** named defendant resides. (Use an additional sheet if necessary).
☐ Check here if the U.S. government, its agencies or employees is a named defendant.
Santa Barbara County

List the California County, or State if other than California, in which **EACH** claim arose. (Use an additional sheet if necessary)
Note: In land condemnation cases, use the location of the tract of land involved.
Santa Barbara County

X. SIGNATURE OF ATTORNEY (OR PRO PER): _____   Date ___11/16/09___

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))